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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/541,997

02/07/2006

Kenji Muraki

MTS-3564US

6609

23122 7590 05/27/2009
RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

EXAMINER

ARCHER, CHRISTOPHER B

ART UNIT

PAPER NUMBER

2432

MAIL DATE

DELIVERY MODE

05/27/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/541,997	Applicant(s) MURAKI ET AL.	
	Examiner CHRISTOPHER B. ARCHER	Art Unit 2432	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 11-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 11-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/31/2005;07/13/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments in regards to claims 1-7, 16, and 19 filed March, 26, 2009 have been fully considered but they are not persuasive.

On pages 8, 9, and 11 of the applicant's arguments, the Applicant states that Rhoads does not teach an electronic watermark detection step which detects only a predetermined certain bit of digital data.

However, **Rhoads column 6, lines 6-18** includes a single "dial-tone" watermark bit which can serve as a "do not record" instruction. This bit can also serve to identify the beginning of a plural-bit watermark.

2. Applicant's arguments in regards to claims 15, 18, and 21 filed March, 26, 2009 have been fully considered but they are not persuasive.

On pages 10 and 11 of the applicant's arguments, the Applicant states that 1) Rhoads does not teach an electronic watermark detection step which detects only a predetermined certain bit of digital data during recording and 2) does not detect all of the copy control information during playback.

1) **Rhoads column 6, lines 6-18** includes a single "dial-tone" watermark bit which can serve as a "do not record" instruction. This bit can also serve to identify the beginning of a plural-bit watermark.

2) **Roads column 6, lines 32-58** teaches a playback device which analyzes several bits in a watermark to determine playback rights.

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3. Applicant's arguments, see pages 10 and 11, filed 03/26/2009, with respect to the rejection(s) of claim(s) 11-14, 17, and 20 under U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art reference.

4. The examiner confirms that claims 8-10 are canceled .

Claim Rejections - 35 USC § 102

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1, 2, 4, 6, 7, 15, 16, 18, 19, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Rhoads et al. (US 6,442,285), hereafter referred to as Rhoads.

Regarding claims 1, 16, and 19: Rhoads column 13, lines 27-38 teaches a copy control module with a watermark detection module and a recording module. The recording module will only copy content based upon a correct response from the watermark detection module. **Rhoads column 6, lines 6-18** includes a single "dial-tone" watermark bit which can serve as a "do not record" instruction. This bit can also serve to identify the beginning of a plural-bit watermark.

Regarding claim 2: Rhoads column 4, lines 46-49 teaches that SDMI is a common form of watermarking digital content. **Rhoads column 13, lines 27-34 and 46-**

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48 teaches a restriction embedded in a watermark that includes three states, “do not copy”, “copy only once” and “unrestricted copying permitted.”

Regarding claim 4: Rhoads column 13, lines 27-34 and 46-48 teaches a restriction embedded in a watermark that includes three states, “do not copy”, “copy only once” and “unrestricted copying permitted.” The names of these states are explicit as to their intended copy permission functionality.

Regarding claim 6:

Rhoads column 13, lines 28-34 and 53-64 teaches a system that can detect copy control information inside of a watermark and a recording system that will react accordingly to each of the copy control signals. This information is encoded and contains a watermark before it is copied, and to preserve the watermark’s restrictions, the content must therefore be encrypted in the copy.

Regarding claim 7: Rhoads column 13, lines 53-58 shows that the specific device being used is a music appliance.

Regarding claims 15 and 18: Rhoads column 13, lines 27-34 and 46-64 teaches a system that can detect copy control information inside of a watermark and a recording system that will react accordingly to each of the copy control signals.

Regarding claim 21: Rhoads column 8, lines 4-5 teaches that modern media players are types of computers. Rhoads column 13, lines 27-34 and 46-64 teaches a system that can detect copy control information inside of a watermark and a recording system that will react accordingly to each of the copy control signals.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhoads, as applied to claim 1 above, in view of Maes et al. (US 7,310,819), hereafter referred to as Maes.

Regarding claims 3 and 5:

Rhoads column 13, lines 27-34 and 46-48 teaches a restriction embedded in a watermark that includes three states, “do not copy”, “copy only once” and “unrestricted copying permitted.” The names of these states are explicit as to their intended copy permission functionality.

However, Rhoads fails to explicitly disclose that the recording apparatus is a CPPM or CPRM compliant device.

Maes column 1, lines 41-63 shows that using Copy Protection for Recorded Media is common in the art.

It would have been obvious to one of ordinary skill in the art at the time of invention to enhance Rhoads to comply with the CPRM and CPPM control methods, as taught by Maes, as both of these broaden the device’s compliance capability.

9. Claims 11-14, 17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over SDMI Amendment 3 in view of Rhoads.

Regarding claim 11, 12, 17, and 20:

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SDMI Amendment 3 teaches that when content is SDMI protected, the system will not examine for watermarks, but when the content is not SDMI protected, the system examines each track for watermark information.

Rhoads column 13, lines 27-34 and 46-48 shows a use restriction embedded in a watermark that includes copy and playback states, “do not copy,” “copy once only,” “unrestricted copying permitted,” “play once,” “play N times”, and “unrestricted playing permitted.” The names of these states are explicit as to their intended copy and playback permission functionality.

It would have been obvious to one of ordinary skill in the art at the time of invention to SDMI technology by adding other states, such as “copy once only,” “unrestricted copying permitted,” “play once,” “play N times”, and “unrestricted playing permitted”, as taught in Rhoads, when the audio content is not SDMI content to better utilize the functionality of the player when watermark information is detected.

Regarding claim 13:

SDMI Amendment 3 teaches that when CCI Bits are set to “no more copies” the content shall be rejected, but when the CCI Bits are not set to “no more copies”, the content shall be admitted.

Regarding claim 14

SDMI Amendment 3 pertains exclusively to Audio/Music content.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER B. ARCHER whose telephone number is (571) 270-7308. The examiner can normally be reached on M-F 7:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (571) 272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CHRISTOPHER B ARCHER/
Examiner, Art Unit 2432

/Gilberto Barron Jr./
Supervisory Patent Examiner, Art Unit 2432